IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 275 of 2000.

Date of Decision: 27-7-2007.

State of H.P. Appellant.

Versus

Rattan Lal and another. Respondents.

Coram

Hon'ble Mr. Justice Surinder Singh, J.

Whether approved for reporting[1]? No

For the appellant : Sh.V K Verma, Additional Advocate General.

For respondent : Shri R.K. Gautam, Sr. Advocate with Mr. Mr. Anurag Sharma, Advocate.

Surinder Singh, J . (oral)

Respondent Rattan Lal was the Driver of Truck No. HP 24-3334 and respondent Amar Singh was allegedly the Driver of Bus No. 6579. Both were put on trial under Section 279, 304-A and 201 of the Indian Penal Code in Criminal case No. 87/2 of 1995. Vide a detailed judgment, the Additional Chief Judicial Magistrate had acquitted them on 5.1.2000.

Feeling aggrieved and dis-satisfied by the judgment of acquittal, the instant appeal has been filed on the ground that the learned trial Court did not appreciate the evidence of the prosecution in its right perspective. Vide order dated 2.6.2000, leave to appeal was granted. Now it has been finally heard.

Precisely, the case of the prosecution has been that the deceased Resham was traveling in Bus No. HIA 6579. On 8.4.1995 at about 9.00 a.m, when the Bus reached near Ratta Barrier, truck No. 24-3334 being driven by Rattan lal respondent rashly and negligent hit the body of the

---

[1] Whether reporters of the Local papers are allowed to see the judgment? Yes.

Bus resulting into injuries to Resham on his head. Immediately he was removed to Nalagarh hospital. He was referred to PGI Chandigarh where he died on the same day. The matter was reported to the Police. The police registered a case and the respondents were booked for the offences aforesaid. Accordingly, they were charge-sheeted to which they pleaded not guilty and claimed trial.

To prove their case, the prosecution examined ten witnesses and the respondents were also examined under Section 313 of the Code of Criminal Procedure. Their case was of denial simplicitor. After appreciating the evidence on record, learned trial Court acquitted the respondents mainly on the ground that the identity of the respondents was not established. Thinku Ram (PW3) who was traveling in the same bus could not identify as to which was the truck and its Driver which had hit the bus. He did not identify any of the respondents. On this point, he was cross-examined by the prosecution but even than nothing could be extracted. Jeet Ram (PW4) also made the similar statement. Deceased was his son. Though he has stated that bus was being driven by Amar Singh but according to him, it was the truck which had hit the bus but he did not see the Driver of the truck nor deposed which was that truck. It is stated by him that the Police had informed him about the number of the bus and the truck. Thus, the statements of the witnesses lacked the identification of the respondents and it was also noticed by the trial Court that immediately after the accident, the bus was not taken into custody. It was after about three months that the Police took into possession the Bus on 15.7.1995. No explanation worth its name came forward for such a delay. Even the FIR was delayed by two days. The respondents have denied that they were the drivers of the alleged vehicles at the relevant time. In these circumstances, on the perusal of statements of eye witnesses Kuku Ram (PW5) and PW6 conductor of HRTC Bus, the

identity of the respondent truck driver could not be established. It has come in the evidence that the truck driver was negligent but the identity of the truck is also not established. In the absence of identity of the truck, it cannot be said that the respondent Rattan Lal was the driver of the truck which had hit the bus and caused injuries to the deceased.

The learned trial Court had taken note of all the relevant facts born out from the record. The parties were heard in detail in support of their versions. I am not in agreement with the submissions made by the learned Additional Advocate General that the judgment of acquittal passed by learned trial Court is perverse for the reason that the conclusions arrived at by the learned trial Court for acquitting the accused are not born out from the record. As such, the appeal is dismissed. The respondents are discharged of their bail bonds entered at any stage during the trial of this case.

(Surinder Singh)
Judge.

July 27, 2007.
(bm)